

BEFORE THE PERSONNEL APPEALS BOARD

STATE OF WASHINGTON

CURTIS RANSFORD,)	Case No. RIF-01-0001
)	
Appellant,)	FINDINGS OF FACT, CONCLUSIONS OF
)	LAW AND ORDER OF THE BOARD
v.)	
)	
COMMUNITY COLLEGES OF SPOKANE,)	
)	
Respondent.)	

I. INTRODUCTION

1.1 **Hearing.** This appeal came on for hearing before the Personnel Appeals Board, WALTER T. HUBBARD, Chair, and GERALD L. MORGEN, Vice Chair. The hearing was held at Spokane Community College, Career Employment Service Center, Building 6, Spokane, Washington, on November 14, 2001. LEANA D. LAMB, Member, did not participate in the hearing or in the decision in this matter.

1.2 **Appearances.** Appellant Curtis Ransford was present and was represented by Christopher Coker, Attorney at Law, of Parr & Younglove, P.L.L.C. Donna J. Stambaugh, Assistant Attorney General, represented Respondent Community Colleges of Spokane.

1.3 **Nature of Appeal.** This is an appeal from a reduction in force due to a lack of work.

1.4 **Citations Discussed.** WAC 251-10-030; RCW 41.06.150(10); O’Gorman v. Central Washington University, PAB No. L93-018 (1995).

II. FINDINGS OF FACT

2.1 Appellant Curtis Ransford was a Recreation Coordinator II and permanent employee for Respondent Community Colleges of Spokane. Appellant and Respondent are subject to Chapters 41.06 and 41.64 RCW and the rules promulgated thereunder, Titles 251 and 358 WAC. Appellant filed a timely appeal with the Personnel Appeals Board on January 24, 2001.

2.2 Appellant was a halftime Recreation Coordinator II at Spokane Community College (SCC). Appellant held no other permanent status positions in any other classifications. As a Recreation Coordinator II, Appellant's primary duty was to oversee SCC's intramural program. For approximately three hours a school quarter, Appellant, with the assistance of work-study students, organized the gym for athletic games such as basketball.

2.3 Participants in the intramural program were primarily students, however, staff and faculty were allowed to participate free of charge on a non-credit basis. In addition, as a way to allow the local community to participate in the program, SCC allowed outside participants (non student/non staff) to take part in intramural activities on a non-credit basis for a \$25 fee. However, for course enrollment purposes, these participants were categorized as "students."

2.4 Michael Pidding was the Athletic Manager and Appellant's direct supervisor. Mr. Pidding was responsible for the overall management of the intramural program. In reassessing the need for intramural sports activities, Mr. Pidding reviewed participation numbers in a 1997-98 school-year report. The figures reflected that a total of 2,140 participants were enrolled in the intramural sports program. A report for the 1998-99 school year reflected that 1,976 participants enrolled in intramural sports program. Appellant provided the numbers to Mr. Pidding, but he provided little information to support the enrollment numbers. Consequently, Mr. Pidding compared the

1 participant names provided to him by Appellant to college registration records. He discovered that
2 the numbers were highly inflated and that a majority of the names provided by Appellant were not
3 registered and were “walk-ins” who were not formally enrolled in the program. As a result, Mr.
4 Pidding directed Appellant to discontinue the unauthorized practice of allowing non-registered
5 individuals to participate in activities.

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7 2.5 In an effort to increase enrollment in the program, Mr. Pidding directed Appellant to
8 promote the program to the student body. Mr. Pidding suggested that the intramural program be
9 advertised on the school’s reader board and that Appellant attend student orientations and ask staff
10 to encourage students to participate. However, participation continued to be low.

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12 2.6 Subsequently, Mr. Pidding reviewed the enrollment numbers for the 1999-00 school year.
13 This data indicated that enrollment in the intramural program totaled 157 participants. After
14 reviewing the low enrollment numbers, Mr. Pidding felt that the entire intramural program should
15 be eliminated.

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17 2.7 By memo dated December 13, 2000, Mr. Pidding informed Dr. Maury Ray, District
18 Director, of the low student turnout for the intramural activities for the prior six quarters. Mr.
19 Pidding recommended that the intramural program be eliminated at the conclusion of the fall
20 quarter and that the 50 percent Recreation Coordinator II position held by the Appellant be
21 eliminated. Dr. Ray concurred with Mr. Pidding’s recommendation to close the program.

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23 2.8 Kay Bryant, Manager of Classified Employment Services, conducted a search of available
24 options in lieu of layoff. However, Ms. Bryant was unable to locate any positions to offer
25 Appellant because he held no other classified positions and because the school district had no other
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1 Recreation Coordinator I or II positions. Furthermore, there were no temporary positions available
2 to offer Appellant.

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4 2.9 By letter dated December 19, 2000, Charles A. Taylor, Chancellor/Chief Executive Officer,
5 informed Appellant that Spokane Community College was no longer offering an intramural
6 program and that as a result, Appellant's position would be eliminated due to a lack of work. The
7 layoff was effective January 16, 2001.

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9 2.10 After its elimination, the intramural program was listed on the class schedule due to an
10 oversight. Since December 2000, Mr. Pidding has received approximately three inquiries from
11 interested students. In addition, Mr. Pidding took on the responsibility of setting up the gym for
12 school athletic events.

13 14 **III. ARGUMENTS OF THE PARTIES**

15 3.1 Respondent argues that the intramural program was unable to attract students and that little
16 if any interest was shown in the program. Respondent contends that management used its discretion
17 to discontinue the program and to use those funds elsewhere. Respondent argues that after the
18 program was eliminated, there was no work left for the Recreation Coordinator II to perform.
19 Respondent argues that there were no viable layoff options because Appellant held no other
20 classified positions and because there were no other Recreation Coordinator I or II positions
21 available. Respondent argues that the evidence substantiates that there was a lack of work, that
22 there were no viable layoff options available for Appellant and that the reduction in force should be
23 affirmed.

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25 3.2 Appellant argues that the department failed to prove that a lack of work existed. Appellant
26 contends that there is no evidence to establish that there was a lack of participation in the intramural

1 program and asserts that SCC has been vague about how the numbers were calculated. Appellant
2 argues that his duties were not just limited to the intramural program and that he had responsibilities
3 which included setting up for other events. Appellant asserts that work-study students are now
4 performing these tasks. Appellant argues that the college continues to offer the program in its
5 course schedule and that this oversight continues one year after the elimination of the program.
6 Appellant argues that Respondent has not met its burden and that his appeal should be granted.

8 IV. CONCLUSIONS OF LAW

9 4.1 The Personnel Appeals Board has jurisdiction over the parties hereto and the subject matter
10 herein.

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12 4.2 Respondent may layoff an employee for lack of funds or lack of work. WAC 251-10-
13 030(1). In an appeal of a layoff or reduction-in-force action, Respondent has the burden of proof.
14 WAC 358-30-170. Respondent has the burden of proving by a preponderance of the credible
15 evidence that it laid the employee off for the reasons stated in the RIF letter. O’Gorman v. Central
16 Washington University, PAB No. L93-018 (1995).

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18 4.3 The first issue here is whether Respondent complied with WAC 251-10-030(1) when it laid
19 off Appellant because of a lack of work. WAC 251-10-030(1), in part, permits an appointing
20 authority to layoff or reduce the number of working hours or the work year of an employee because
21 of a lack of work. The credible evidence supports that participation in the intramural program was
22 low and that the appointing authority decided to eliminate the program in its entirety. As a result,
23 there was little work for Appellant to perform. Furthermore, there was no evidence that work
24 previously performed by Appellant was being performed by student workers. We conclude,
25 therefore, that there was a legitimate lack of work within the SCC intramural program that resulted
26 in the elimination of the Recreation Coordinator II position held by Appellant. Respondent has met

1 its burden of proof that it complied with WAC 251-10-030 when it eliminated Appellant's position
2 due to a lack of work.

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4 4.4 The second issue presented is whether Respondent provided Appellant with appropriate
5 layoff options. WAC 251-10-030, subsection, (4) indicates:

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7 Within the layoff unit, a permanent status employee scheduled for layoff
8 shall be offered employment options to position(s):

9 (a) For which he/she meets any specific position requirements;

10 (b) Which are comparable, as determined by the personnel officer; and

11 (c) Which are in:

12 (i) Class(es) in which the employee has held permanent status which
13 have the same or lower salary range maximum as the current class;

14 (ii) Lower class(es) in those same class series for which the employee
15 is qualified.

16 Subsection (5) of the rule indicates:

17 . . . a permanent employee scheduled for layoff who has no options available under
18 subsection (4) of this section shall be offered position(s) as follows:

19 (a) The personnel officer will offer in writing not less than three positions from
20 among the highest available classes (unless the total available is less than three);
21 provided that any position(s) offered must be:

22 (i) At the same level or lower than the class from which the employee is being laid
23 off; and

24 (ii) Vacant or held by a provisional, temporary, or probationary employee; and

25 (iii) In a class for which the employee being laid off meets the minimum
26 qualifications and can pass the appropriate qualifying examination.

4.5 The evidence established that Appellant held no other prior permanent status positions, that
there were no other Recreational Coordinator I or II positions available, and that there were no
available positions in other classes for which he was qualified. Therefore, Respondent correctly
determined that Appellant had no layoff options under either subsection (4) or (5) of WAC 251-10-
030(4).

4.6 Respondent has met its burden of proof, and the appeal should be denied.

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V. ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal of Curtis Ransford is denied.

DATED this _____ day of _____, 2001.

WASHINGTON STATE PERSONNEL APPEALS BOARD

Walter T. Hubbard, Chair

Gerald L. Morgen, Vice Chair